



**AZ POST**  
**INTEGRITY BULLETIN**  
*Volume No. 6*



The Arizona Peace Officer Standards and Training Board (AZ POST) has the legislative mandate to establish and enforce the physical, mental, and moral fitness standards for all peace officers in the state. This charge, to protect the public by overseeing the integrity of Arizona's law enforcement officers, is met by reviewing cases and taking action against the certification of individuals who violate the AZ POST Rules. The following is a summary of some of the actions taken by the Arizona Peace Officer Standards and Training Board at its **September 27, 2000**, public meeting. These actions are not precedent setting, in the sense that similar cases will end with the same result, because each case is considered on its individual facts and circumstances. Having said that, this Bulletin is being published to provide insight into the Board's position on various types of officer misconduct. As always, the Compliance Specialist for your agency is available to discuss any matter and to assist you with any questions you might have. The "*Editor Notes*" and the "Frequently Asked Questions" section are historical observations and insights for training and discussion purposes only.

**CASE NO. 1**

**PHYSICAL VIOLENCE**

Officer A, while off duty, was at the residence of his former girlfriend. She informed him that she had a new boyfriend and he became upset. He grabbed her by the shoulder and forced her into the house. While looking around the home for clues regarding the new boyfriend, he placed her in a wrist-lock and threatened verbally to kill both her and her new boyfriend. Officer A was convicted of threats and battery, fired by his agency and revoked by AZ POST for committing offenses involving physical violence.

**CASE NO. 2**

**DISHONESTY AND MALFEASANCE**

Officer B submitted a claim for overtime for a court appearance he was scheduled to make, but did not attend. During the internal affairs investigation it came to light that he was working an off duty job for which he had not obtained a department permit. Officer B produced a department form, "Request for Approval of Outside Employment." The problem was that the form was dated over three months before the form had been in use in the department. Officer B initially denied that he had falsified the form, but later stated he may have filled out a new form and backdated it. He retired from his department. The Board revoked his certification for committing an offense involving dishonesty and malfeasance in office.

**CASE NO. 3      DISHONESTY, MISFEASANCE, MALFEASANCE & NONFEASANCE**

Officer C participated in a toy drive at the end of 1998. He obtained toys from the drive, filling in fictitious names and addresses of families who were to receive the toys. He could have obtained the toys without naming any families because the names and addresses were optional. From the more than 40 toys he received, Officer C gave two of them to his children. An anonymous letter to the department prompted an internal investigation. At the time of the first IA interview a few days after

Christmas, he still had a large bag containing about 21 toys in his home. He was not asked if he still had toys and he did not volunteer the information. After the interview, he had his wife take the remaining undistributed toys from his home and deliver them to his church for distribution. Officer C was interviewed three times. During the first interview and the second interview almost one month later, he steadfastly denied giving any of the toys to his children. After the second interview, Officer C discussed his situation with his pastor and decided to approach IA and tell the truth. He also returned the undistributed toys to the department. His department fired him and he appealed to the Civil Service Board. After a hearing in which the hearing officer recommended returning him to work with a suspension, the department agreed to do just that. The POST Board had already begun a proceeding which it continued. Officer C stipulated to the facts for the Board to consider. He also presented the testimony of several character witnesses on his own behalf. The Board revoked his certification for committing an offense involving dishonesty, misfeasance, malfeasance or nonfeasance, and conduct which would tend to disrupt, diminish or otherwise jeopardize public trust in the law enforcement profession.

#### **CASE NO. 4**

#### **MALFEASANCE & CONDUCT**

Cadet D was removed from the academy for abusive behavior. The cadet was engaged in performing field problems when he failed to control a “drunk suspect” and she “shot” him. He became upset and was unable to regain his composure well enough to begin his next problem. On the way back to campus, the cadets he rode with noticed something seemed to be wrong and they asked him about it. Cadet D berated the officer who had portrayed the drunk who shot him using extremely vile and racially derogatory statements and ugly stereotypical remarks. He continued by saying things to the effect that he would liked to have beat her and would beat people of her ethnic origin and call it resisting. He was dismissed by the academy, terminated by his department and denied certification by the Board for malfeasance and conduct that would tend to diminish, disrupt or otherwise jeopardize public trust in the law enforcement profession.

#### **CASE NO. 5**

#### **PHYSICAL VIOLENCE AND MALFEASANCE**

Officer E became intoxicated and got into physical altercations with bar patrons. The city police responded and Officer E refused to cooperate with them, attempting to leave after being told he was not free to leave. After the local police found out he was an officer for another agency, they called his sergeant and released him into the sergeant’s custody. He again attempted to walk away and when the sergeant confronted him, he physically shoved the sergeant out of the way. He was booked and later convicted of Resisting/Interfering with Police. Approximately nine months later, Officer E was again in trouble. This time he was driving with a BAC in the extreme DUI range when he rear-ended a 1992 Buick. He walked away from the accident scene without checking the welfare of the other driver. He was later located by the police lying next to a brick wall, partially concealed beneath some shrubbery. His agency gave him an 80 hour suspension for the first incident and terminated his employment for the second. The Board revoked his certification for committing a crime involving physical violence and malfeasance in office.

#### **CASE NO. 6**

#### **DISHONESTY**

Recruit F was previously employed as a civilian by the same department that appointed him a peace

officer and enrolled him in the academy. During his first few weeks as a cadet, the department began an investigation into on duty sexual misconduct by a number of employees. Recruit F was interviewed and repeatedly denied that he had any sexual contacts with a particular co-worker, even after the investigators told him that she revealed numerous sexual encounters in and around department property. During a second interview two days later, Recruit F presented a written statement listing the sexual encounters he had previously denied and stating that he had been deceptive in an attempt to complete the academy. The department fired him and the Board denied him peace officer certification.

#### **CASE NO. 7**

#### **DISHONESTY**

Sgt. G's wife worked for the Forest Service collecting money from camping and boating fee boxes. For about a year Mrs. G skimmed from the collections she made. Sgt. G occasionally made deposits of large amounts of small bills to their joint account. Although he never asked his wife where the money came from, he had his suspicions. Both were convicted of theft. Sgt. G resigned from his department. The Board revoked his peace officer certification for committing an offense involving dishonesty.

#### **CASE NO. 8**

#### **MISFEASANCE & MALFEASANCE**

Officers H and J were both terminated from their department for having minimal sexual contacts while on duty. Both engaged in petting and both were largely honest when asked by internal affairs. Officer H was scrupulously truthful when asked, and the Board suspended her certification for three months for misfeasance or malfeasance in office. Officer J was not dishonest, but minimized the contact by saying it amounted to hugging when most observers would say it amounted to petting. The Board suspended his certification for six months.

#### **CASE NO. 9**

#### **REHEARING**

Mr. K was an officer whose certification had been revoked for making racially derogatory statements on more than one occasion. Once, after hearing of the transfer of an African American fellow officer, he said, "Good, I don't like working with niggers." A second time he referred to his Lieutenant as a "nigger" and spoke of going to his house wearing white sheets to scare him to death. Mr. K asked the Board to grant him a rehearing on the grounds that he had made a deal with the state for a year's suspension and sensitivity training, and that the Board had improperly permitted one of the subjects of the remark to speak. Finally, Mr. K urged that revocation is too severe a sanction for his conduct. The Board granted a rehearing, permitted the parties to argue the proper sanction, and then upheld the revocation.

#### **CASE NO. 10**

#### **DRUG USE**

Officer L smoked marijuana during a temporary termination from his department 14 years ago. This fact came to light during an internal affairs investigation into drug use. The polygraph showed deception on the questions regarding drug use, and Officer L explained that after he was terminated, he smoked marijuana one time, before he won his job back. The agency referred the case to POST and placed him on administrative leave. The Board revoked his certification and his agency fired him.

*\*Editor's note: The Board has never permitted an officer who used illegal drugs after becoming*

*certified to maintain certification.*

## **FREQUENTLY ASKED QUESTIONS CONCERNING AZ POST**

The Board sometimes denies peace officer certification to cadets or officers because they do not meet the minimum qualifications for appointment. How do people who do not meet minimum qualifications get hired and placed into an academy in the first place?

POST Rule R13-4-105 requires that an agency must complete the background investigation before appointing a person as a peace officer or enrolling the person in an academy. The only portion of the background investigation that may be incomplete upon entering an academy is the return of the fingerprint results. Of course, the fingerprint card must have been submitted prior to appointment. The rule recognizes the reality that the fingerprint returns sometimes take several weeks. The person may not graduate from the academy unless a qualifying fingerprint return has been received.

The reason POST sometimes has to deny applicants and cause them to be pulled from an academy is that some employing agencies do not always abide by the rule. By placing an applicant into an academy before the background is completed, the agency takes a serious risk. It is no kindness to the applicant who may end up being humiliated by being pulled out of the class. The applicant may also have wasted precious time relying on the offer of employment and passing up other alternative career moves. The best way to protect your new hires is to do a thorough and complete background prior to appointment.

Some other suggestions for saving time and money on backgrounds and hiring the most qualified applicants include the following. Do the background investigation before the polygraph. This way, your polygraph examiner will be alerted to potential trouble spots and will be able to more effectively use the instrument. You will also save money because the background often screens out applicants who do not meet minimum qualifications and no polygraph is then necessary.

---

### **“Truth or Consequences? The Path to Career Destruction”**

(Reprinted with permission from the Michael P. Stone, P.C., Lawyers, Training Bulletin, Vol. II, Issue No. 6, July 1999)

Truth, honesty and veracity are character traits that we all agree are essential qualities in law enforcement candidates. Police agencies would not think of hiring an applicant who had demonstrated a lack of honesty, either in his or her background, or in the application process itself. Any of us who might be called upon to describe the most important attribute necessary to law enforcement officers would list personal integrity first.

Why is it then, when everyone recognizes that honesty and truthfulness are indispensable to continued career vitality, too many of our colleagues, when put to the test, fail, and are surprised to learn that they will not retain their positions?

Thirty-two years ago, I was sworn in as a police officer in a San Francisco Bay Area suburb. It was no different then. Credibility was something, even back in those years, that was simply not to be compromised. And since then, nothing in this profession has changed in a way that would de-emphasize or undercut the central prominence of truthfulness on the job. Indeed, as the notion of a police “code of silence” has become public concern, the focus on personal integrity and credibility becomes ever clearer.

Accordingly, we would expect to see a corresponding reduction in the number of cases where deputies and officers are charged with and disciplined for “false and misleading” statements. Unfortunately, this has not happened. I haven’t seen statistics, but being exposed, day in and day out, to a wide spectrum of internal investigations in southern California, it strikes me that we have a serious problem confronting us: our members need, more than ever, to understand that there is no way back from material lies and false denials made during any official inquiry.

An important part of this understanding includes contemplation of the reasons why deception and attempts at it are not, and cannot be tolerated. A law enforcement officer is expected to speak that truth in a variety of duty-related contexts, including, of course, testifying. But just like any other witness, an officer who testifies or swears an affidavit, automatically puts his or her own credibility in issue. When one’s credibility is in issue, his or her *character* for truth, honesty, and veracity is also in issue. The most common way of attacking a person’s character for truth, honesty and veracity is to show that the person has a poor reputation for these character traits. This is demonstrated most powerfully, by showing specific, identified instances of lying, misleading, or deception. It follows then, that a party who wishes to attack the veracity of a testifying officer, should be permitted to do so by proof that the officer has deceived, or tried to, in the past, in a duty-related matter. If the officer has violated his duty to speak the truth in the past, then his credibility under oath is seriously compromised.

Under recent interpretations of the *Brady* doctrine, prosecutors are arguably under a duty to disclose to the defense that an officer-witness has been deceptive in a duty-related incident. Police administrators are being urged to disclose these facts to the prosecutor. In certain cases of which I am personally aware, prosecutors have notified departments that they will not file cases from reporting officers who have deceived their supervisors in official matters. Such an officer will likely be deemed unfit, and subject to discharge, as a consequence.

Today, a police administrator, faced with an employee who has attempted deception, can be counted on to simply avoid the problem of the untruthful officer-witness, and terminate the officer upon the *first* determination that he or she has lied. In connection with this, chiefs and sheriffs have applied phrases like “*zero tolerance*” and “*you lie, you die*” to this issue of officer veracity.

Let us be clear, *if one attempts to deceive in any duty-related context, one must also assume that termination will result.* Further, there will be no ability to secure public law enforcement employment ever again. It is as simple as that.

Why do officers lie? Sometimes, it is out of a desire to avoid, at any cost, admissions of

misconduct. It is done with full knowledge of the consequences, and it is a deliberate effort to cover up wrongdoing. Clearly this demonstrates unfitness, standing alone.

In other, perhaps most cases, officers lie out of undue fear of the consequences, or out of ignorance, or in a sudden, knee-jerk response to an unanticipated question or inquiry. In these cases, time to reflect and persuasion will often dissuade the officer from going through with the lie. The problem is, usually there isn't the time or opportunity for reflection or persuasion, and unfortunately, the lie is spoken.

The reality is, however, it doesn't matter whether the lie results from premeditation, or is rather the influence of fear, ignorance or surprise. A lie is a lie.

There are some among us, unfortunately, who whenever and however they are put to the test, will fail it, because they lack the central character trait integrity. There is nothing we can do for them. They don't belong in our ranks, and they need to be identified and eliminated.

But what do we do about fear, ignorance, and surprise, when there isn't time for reflection, consideration, consultation or persuasion? It takes this: each member must periodically contemplate the place of honesty and integrity in his or her profession, reaffirming that it simply cannot be compromised, recognizing that any failure to speak the truth will lead to career destruction, and committing to himself or herself that, in any circumstance where there is a duty to speak, it will only be the truth. In this way, just as we mentally prepare ourselves for the sudden and unexpected incident on the street, we mentally prepare for the unexpected or stressful inquiry about something we have done, or have failed to do. Just as "muscle memory" aids the officer in the sudden deadly or violent confrontation, "ethical memory" will lead us in the right way when our actions are questioned. But just like shooting, defensive tactics, gun retention and all officer safety techniques, we must think about our integrity and honesty, practice it always, and commit to apply it when the circumstances are presented. We need to do this enough so that it is always the *automatic response*—then fear, ignorance and surprise will not exact such a heavy toll in police careers.

If you don't believe this, consider: how many of our comrades have lost their jobs because they lied in cases where the underlying misconduct, even if admitted, would not have resulted in termination? In my own experience, *most* terminations for lying are in this category. If you are still unpersuaded, know this: One should not seek out an ethical lawyer or representative for representation if one plans to lie—he or she will not participate, because *today's lie becomes tomorrow's perjury*. Believe this as if your career depended upon it, because it does.

Available on the AZ POST web site: [www.azpost.state.az.us](http://www.azpost.state.az.us)